Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

In The

Supreme Court of the United States

October Term, 1973

No. 73-1278

CLIFTON C. TANG, Petitioner,

v.

APPELLATE DIVISION OF THE NEW YORK SUPREME COURT, FIRST DEPARTMENT, and Honorable Justices ARON STEUER, OWEN McGIVERN, and LOUIS J. CAPOZZOLI, Respondents.

On Petition For Writ Of Certiorari To The United States Court of Appeals For The Second Circuit

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PETITIONER'S REPLY MEMORANDUM

CLIFTON C. TANG,
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March 15, 1974

Respondents' Argument asserts that "no substantial federal question has been presented."

On the first of the three questions presented at page 3 of the Petition, for example, the court below has expressed the opinions that petitioner's Constitutional claims and arguments "may well be substantial" (App. 9d) and "are not insubstantial." (App. 15d)

On the second question (Jurisdiction of federal courts) and the third question (Conflict with this Court's decision), the Opposing Brief is barren of any reason why these questions are not substantial.

New York Judiciary Law Section 470 authorizes New York attorneys to reside in any State adjoining New York. New Mexico has no such law. In the New Mexico case of Suffling v. Bondurant, 339 F.Supp. 257, affirmed sub nom. Rose v. Bondurant, 409 U.S. 807, there were no questions raised and decided with respect to bar-applicants', and their spouses', (A) freedom to make their marital home in an adjoining State, and (B) freedom to remain permanent residents of an adjoining State. Therefore, this Court's summary affirmance of Rose does not dispose of the Constitutional questions attending the New York requirement here in issue. (Petition at pp. 14-15)

The court below has explicitly ruled (App. 4d) that:

> "Thus, the New York requirement of actual residence as interpreted by the New York courts is substantially broader than that approved in Suffling and affirmed by the Supreme Court. The question remains whether the broader New York residence requirement had a 'rational connection with the applicant's fitness or capacity to practice law.' Schware v. Board of Bar Examiners, 353 U.S. 232, 239 (1957)."

The Opposing Brief, however, devotes 3 of its 9 pages arguing against the above ruling of the Second Circuit. It is beyond the permissible scope of this reply memorandum to deal with respondents' argument here. But, in order for this Court to review respondents' argument on the merits, respondents have added one more reason for this Court to grant a writ of certiorari to the court below.

Respectfully submitted,

March 15, 1974

Clifton C. Tang,
Petitioner pro se